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IN THE HIGH COURT AT CALCUTTA  
CONSTITUTIONAL WRIT JURISDICTION  
APPELLATE SIDE

W.P.A. No. 17611 of 2023

Chhabi Pradhan  
Vs.  
The West Bengal State Electricity  
Distribution Company Limited & Ors.

Mr. Sarojit Dasgupta,  
Mr. Bikramjit Mandal  
...for the petitioner

Mr. Saujit Sankar Koley  
...for the WBSEDCL

Affidavit-of-service filed in Court today be kept  
on record.

Learned counsel for the petitioner submits that  
she is a septuagenarian and her husband, who  
would be also about 74 years of age, went missing  
on and from January 03, 2022. It is submitted that  
the petitioner's husband has been suffering from  
Alzheimer's disease and other age-related problems,  
for which the husband of the petitioner was not in a  
fully perfect mental condition at the relevant  
juncture.

The petitioner and her family, accordingly,  
lodged a General Dairy Entry before the police  
authorities on the very next date, that is, on  
January 04, 2022, whereafter the daughter of the

petitioner also filed a writ petition in this Court, seeking a writ of habeas corpus with regard to the missing husband of the petitioner.

Several orders were passed therein, including a direction on the police authorities to hold an investigation. However, ultimately, the writ petition with the claim of habeas corpus was disposed in the month of June, 2022, taking note of the fact that, despite best efforts, the police authorities could not trace out the whereabouts of the missing husband of the petitioner.

It is submitted that the husband of the petitioner had last drawn pension prior to January, 2022. However, the pension had been continued to be deposited in the account up to December, 2022.

Thereafter, when a certificate was required to be produced as per regulations, the same could not be placed before the respondent-authorities, in view of the petitioner's husband having gone missing since January, 2022.

The petitioner, accordingly, claims family pension on account of her husband, to be deposited in the name of the petitioner.

Upon query, it is revealed that the petitioner's daughter is married and there is no other dependent of the missing husband of the petitioner,

who was the original drawer of the pension account, apart from the petitioner.

Learned counsel for the petitioner places reliance on a coordinate bench judgment, which is an unreported one, passed in W.P. No. 8186(W) of 2008, wherein learned Single Judge placed reliance on a Memorandum dated May 14, 1990 to observe that if an application was made to the head of the office of the employee in terms of the said Memorandum, such family pension could be granted to the said family members.

Learned counsel appearing for the respondent-authorities hands over a copy of the Memorandum dated May 14, 1990 and subsequent Memorandum dated July 17, 1992, the latter containing the format of an Indemnity Bond, which is required to be furnished under both the Memoranda, along with proof that the family lodged a report with the concerned police station.

A perusal of the Memorandum dated May 14, 1990 indicates that the same stipulates that family pension, etc. may be granted in case where an employee/pensioner disappears leaving his family, subject to the fulfilment of two conditions:

- (i) the family must lodge a report with the concerned Police Station and obtain a report that the employee/pensioner has

not been traced after all efforts had been made by the police;

- (ii) An Indemnity Bond should be taken from beneficiaries concerned to the effect that all payments received from Government shall be refunded to Government in the event the missing employee/pensioner reappears and claims his dues.

It is further provided that the above benefit may be sanctioned by the Administrative Department concerned.

In the present case, the petitioner, as expressed through counsel appearing for her, is agreeable to furnish such indemnity bond and documentary proof of a report having been lodged with the concerned police station and subsequent developments in that regard.

That apart, it is evident from the materials annexed to the writ petition and the pleadings made therein that sufficient efforts were made by the family of the missing person/employee to trace out the said person.

Hence, the respondents are required to disburse the family pension of the petitioner's missing husband in favour of the petitioner, who is the sole dependent of the missing person, subject to furnishing of the necessary documents by the

petitioner as contemplated in the Memorandum dated May 14, 1990.

Accordingly, W.P.A. No. 17611 of 2023 is disposed of by directing the petitioner to file an appropriate application to the head of the concerned Department of the institution where her husband had been employed, furnishing therewith an indemnity bond as per format, which is annexed to the Memorandum dated July 17, 1992, which was published in pursuance of Memorandum No. 4671-F dated May 14, 1990 issued by the Government of West Bengal, Finance Department, Audit Branch.

Learned counsel for the respondent-authorities has supplied copies of the Memoranda dated May 14, 1990 and July 17, 1992, along with the format of the Indemnity Bond annexed to the latter, to his counterpart appearing for the petitioner, during the course of the hearing.

Upon such application being filed by the petitioner, along with relevant documents, including the documentary proof that the family lodged a report with the concerned police station and the outcome of the same, including the relevant orders and other documents pursuant to the habeas corpus petition filed by the missing person's daughter, the same will be processed at

the earliest by the respondent-authorities and the family pension shall be disbursed in favour of the petitioner, subject to filing of such documents by the petitioner.

Such entire exercise, including the commencement of disbursement of the family pension in favour of the petitioner, shall be completed latest within one month from the filing of the application by the petitioner.

It is made clear that the above order shall be subject to the eventuality that if the missing husband of the petitioner returns, the parties shall act in terms of the indemnity bond furnished by the petitioner.

There will be no order as to costs.

Urgent photostat certified copies of this order, if applied for, be made available to the parties upon compliance of all necessary formalities.

(Sabyasachi Bhattacharyya, J.)